

1 AMENDMENT TO HOUSE BILL 805

2 AMENDMENT NO. _____. Amend House Bill 805 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Workers' Compensation Act is amended by
5 changing Section 6 as follows:

6 (820 ILCS 305/6) (from Ch. 48, par. 138.6)

7 Sec. 6. (a) Every employer within the provisions of this
8 Act, shall, under the rules and regulations prescribed by the
9 Commission, post printed notices in their respective places
10 of employment in such number and at such places as may be
11 determined by the Commission, containing such information
12 relative to this Act as in the judgment of the Commission may
13 be necessary to aid employees to safeguard their rights under
14 this Act in event of injury.

15 In addition thereto, the employer shall post in a
16 conspicuous place on the place of the employment a printed or
17 typewritten notice stating whether he is insured or whether
18 he has qualified and is operating as a self-insured employer.
19 In the event the employer is insured, the notice shall state
20 the name and address of his insurance carrier, the number of
21 the insurance policy, its effective date and the date of
22 termination. In the event of the termination of the policy

1 for any reason prior to the termination date stated, the
2 posted notice shall promptly be corrected accordingly. In
3 the event the employer is operating as a self-insured
4 employer the notice shall state the name and address of the
5 company, if any, servicing the compensation payments of the
6 employer, and the name and address of the person in charge of
7 making compensation payments.

8 (b) Every employer subject to this Act shall maintain
9 accurate records of work-related deaths, injuries and illness
10 other than minor injuries requiring only first aid treatment
11 and which do not involve medical treatment, loss of
12 consciousness, restriction of work or motion, or transfer to
13 another job and file with the Commission, in writing, a
14 report of all accidental deaths, injuries and illnesses
15 arising out of and in the course of the employment resulting
16 in the loss of more than 3 scheduled work days. In the case
17 of death such report shall be made no later than 2 working
18 days following the accidental death. In all other cases such
19 report shall be made between the 15th and 25th of each month
20 unless required to be made sooner by rule of the Commission.
21 In case the injury results in permanent disability, a further
22 report shall be made as soon as it is determined that such
23 permanent disability has resulted or will result from the
24 injury. All reports shall state the date of the injury,
25 including the time of day or night, the nature of the
26 employer's business, the name, address, age, sex, conjugal
27 condition of the injured person, the specific occupation of
28 the injured person, the direct cause of the injury and the
29 nature of the accident, the character of the injury, the
30 length of disability, and in case of death the length of
31 disability before death, the wages of the injured person,
32 whether compensation has been paid to the injured person, or
33 to his or her legal representative or his heirs or next of
34 kin, the amount of compensation paid, the amount paid for

1 physicians', surgeons' and hospital bills, and by whom paid,
2 and the amount paid for funeral or burial expenses if known.
3 The reports shall be made on forms and in the manner as
4 prescribed by the Commission and shall contain such further
5 information as the Commission shall deem necessary and
6 require. The making of these reports releases the employer
7 from making such reports to any other officer of the State
8 and shall satisfy the reporting provisions as contained in
9 the "Health and Safety Act" and "An Act in relation to safety
10 inspections and education in industrial and commercial
11 establishments and to repeal an Act therein named", approved
12 July 18, 1955, as now or hereafter amended. The reports
13 filed with the Commission pursuant to this Section shall be
14 made available by the Commission to the Director of Labor or
15 his representatives and to all other departments of the State
16 of Illinois which shall require such information for the
17 proper discharge of their official duties. Failure to file
18 with the Commission any of the reports required in this
19 Section is a petty offense.

20 Except as provided in this paragraph, all reports filed
21 hereunder shall be confidential and any person having access
22 to such records filed with the Industrial Commission as
23 herein required, who shall release any information therein
24 contained including the names or otherwise identify any
25 persons sustaining injuries or disabilities, or give access
26 to such information to any unauthorized person, shall be
27 subject to discipline or discharge, and in addition shall be
28 guilty of a Class B misdemeanor. The Commission shall compile
29 and distribute to interested persons aggregate statistics,
30 taken from the reports filed hereunder. The aggregate
31 statistics shall not give the names or otherwise identify
32 persons sustaining injuries or disabilities or the employer
33 of any injured or disabled person.

34 (c) Notice of the accident shall be given to the

1 employer as soon as practicable, but not later than 45 days
2 after the accident. Provided:

3 (1) In case of the legal disability of the employee or
4 any dependent of a deceased employee who may be entitled to
5 compensation under the provisions of this Act, the
6 limitations of time by this Act provided do not begin to run
7 against such person under legal disability until a guardian
8 has been appointed.

9 (2) In cases of injuries sustained by exposure to
10 radiological materials or equipment, notice shall be given to
11 the employer within 90 days subsequent to the time that the
12 employee knows or suspects that he has received an excessive
13 dose of radiation.

14 No defect or inaccuracy of such notice shall be a bar to
15 the maintenance of proceedings on arbitration or otherwise by
16 the employee unless the employer proves that he is unduly
17 prejudiced in such proceedings by such defect or inaccuracy.

18 Notice of the accident shall give the approximate date
19 and place of the accident, if known, and may be given orally
20 or in writing.

21 (d) Every employer shall notify each injured employee
22 who has been granted compensation under the provisions of
23 Section 8 of this Act of his rights to rehabilitation
24 services and advise him of the locations of available public
25 rehabilitation centers and any other such services of which
26 the employer has knowledge.

27 In any case, other than one where the injury was caused
28 by exposure to radiological materials or equipment or
29 asbestos unless the application for compensation is filed
30 with the Commission within 3 years after the date of the
31 accident, where no compensation has been paid, or within 2
32 years after the date of the last payment of compensation,
33 where any has been paid, whichever shall be later, the right
34 to file such application shall be barred.

1 In any case of injury caused by exposure to radiological
2 materials or equipment or asbestos, unless application for
3 compensation is filed with the Commission within 25 years
4 after the last day that the employee was employed in an
5 environment of hazardous radiological activity or asbestos,
6 the right to file such application shall be barred.

7 If in any case except one where the injury was caused by
8 exposure to radiological materials or equipment or asbestos,
9 the accidental injury results in death application for
10 compensation for death may be filed with the Commission
11 within 3 years after the date of death where no compensation
12 has been paid or within 2 years after the date of the last
13 payment of compensation where any has been paid, whichever
14 shall be later, but not thereafter.

15 If an accidental injury caused by exposure to
16 radiological material or equipment or asbestos results in
17 death within 25 years after the last day that the employee
18 was so exposed application for compensation for death may be
19 filed with the Commission within 3 years after the date of
20 death, where no compensation has been paid, or within 2 years
21 after the date of the last payment of compensation where any
22 has been paid, whichever shall be later, but not thereafter.

23 (e) Any contract or agreement made by any employer or
24 his agent or attorney with any employee or any other
25 beneficiary of any claim under the provisions of this Act
26 within 7 days after the injury shall be presumed to be
27 fraudulent.

28 (f) Any condition or impairment of health of an employee
29 employed as a firefighter, emergency medical technician
30 (EMT), or paramedic which results directly or indirectly from
31 any bloodborne pathogen, lung or respiratory disease or
32 condition, heart or vascular disease or condition,
33 hypertension, tuberculosis, or cancer resulting in any
34 disability (temporary, permanent, total, or partial) to the

1 employee shall be conclusively presumed to arise out of and
2 in the course of the employee's firefighting, EMT, or
3 paramedic employment and, further, shall be conclusively
4 presumed to be causally connected to the hazards or exposures
5 of the employment. This presumption shall also apply to any
6 hernia or hearing loss suffered by an employee employed as a
7 firefighter, EMT, or paramedic. However, this presumption
8 shall not apply to any employee who has been employed as a
9 firefighter, EMT, or paramedic for less than 5 years at the
10 time the condition or impairment is discovered.

11 (Source: P.A. 84-981.)

12 Section 10. The Workers' Occupational Diseases Act is
13 amended by changing Section 1 as follows:

14 (820 ILCS 310/1) (from Ch. 48, par. 172.36)

15 Sec. 1. This Act shall be known and may be cited as the
16 "Workers' Occupational Diseases Act".

17 (a) The term "employer" as used in this Act shall be
18 construed to be:

19 1. The State and each county, city, town, township,
20 incorporated village, school district, body politic, or
21 municipal corporation therein.

22 2. Every person, firm, public or private corporation,
23 including hospitals, public service, eleemosynary, religious
24 or charitable corporations or associations, who has any
25 person in service or under any contract for hire, express or
26 implied, oral or written.

27 3. Where an employer operating under and subject to the
28 provisions of this Act loans an employee to another such
29 employer and such loaned employee sustains a compensable
30 occupational disease in the employment of such borrowing
31 employer and where such borrowing employer does not provide
32 or pay the benefits or payments due such employee, such

1 loaning employer shall be liable to provide or pay all
2 benefits or payments due such employee under this Act and as
3 to such employee the liability of such loaning and borrowing
4 employers shall be joint and several, provided that such
5 loaning employer shall in the absence of agreement to the
6 contrary be entitled to receive from such borrowing employer
7 full reimbursement for all sums paid or incurred pursuant to
8 this paragraph together with reasonable attorneys' fees and
9 expenses in any hearings before the Industrial Commission or
10 in any action to secure such reimbursement. Where any
11 benefit is provided or paid by such loaning employer, the
12 employee shall have the duty of rendering reasonable
13 co-operation in any hearings, trials or proceedings in the
14 case, including such proceedings for reimbursement.

15 Where an employee files an Application for Adjustment of
16 Claim with the Industrial Commission alleging that his or her
17 claim is covered by the provisions of the preceding
18 paragraph, and joining both the alleged loaning and borrowing
19 employers, they and each of them, upon written demand by the
20 employee and within 7 days after receipt of such demand,
21 shall have the duty of filing with the Industrial Commission
22 a written admission or denial of the allegation that the
23 claim is covered by the provisions of the preceding paragraph
24 and in default of such filing or if any such denial be
25 ultimately determined not to have been bona fide then the
26 provisions of Paragraph K of Section 19 of this Act shall
27 apply.

28 An employer whose business or enterprise or a substantial
29 part thereof consists of hiring, procuring or furnishing
30 employees to or for other employers operating under and
31 subject to the provisions of this Act for the performance of
32 the work of such other employers and who pays such employees
33 their salary or wage notwithstanding that they are doing the
34 work of such other employers shall be deemed a loaning

1 employer within the meaning and provisions of this Section.

2 (b) The term "employee" as used in this Act, shall be
3 construed to mean:

4 1. Every person in the service of the State, county,
5 city, town, township, incorporated village or school
6 district, body politic or municipal corporation therein,
7 whether by election, appointment or contract of hire, express
8 or implied, oral or written, including any official of the
9 State, or of any county, city, town, township, incorporated
10 village, school district, body politic or municipal
11 corporation therein and except any duly appointed member of
12 the fire department in any city whose population exceeds
13 500,000 according to the last Federal or State census, and
14 except any member of a fire insurance patrol maintained by a
15 board of underwriters in this State. One employed by a
16 contractor who has contracted with the State, or a county,
17 city, town, township, incorporated village, school district,
18 body politic or municipal corporation therein, through its
19 representatives, shall not be considered as an employee of
20 the State, county, city, town, township, incorporated
21 village, school district, body politic or municipal
22 corporation which made the contract.

23 2. Every person in the service of another under any
24 contract of hire, express or implied, oral or written, who
25 contracts an occupational disease while working in the State
26 of Illinois, or who contracts an occupational disease while
27 working outside of the State of Illinois but where the
28 contract of hire is made within the State of Illinois, and
29 any person whose employment is principally localized within
30 the State of Illinois, regardless of the place where the
31 disease was contracted or place where the contract of hire
32 was made, including aliens, and minors who, for the purpose
33 of this Act, except Section 3 hereof, shall be considered the
34 same and have the same power to contract, receive payments

1 and give quittances therefor, as adult employees. An employee
2 or his or her dependents under this Act who shall have a
3 cause of action by reason of an occupational disease,
4 disablement or death arising out of and in the course of his
5 or her employment may elect or pursue his or her remedy in
6 the State where the disease was contracted, or in the State
7 where the contract of hire is made, or in the State where the
8 employment is principally localized.

9 (c) "Commission" means the Industrial Commission created
10 by the Workers' Compensation Act, approved July 9, 1951, as
11 amended.

12 (d) In this Act the term "Occupational Disease" means a
13 disease arising out of and in the course of the employment or
14 which has become aggravated and rendered disabling as a
15 result of the exposure of the employment. Such aggravation
16 shall arise out of a risk peculiar to or increased by the
17 employment and not common to the general public.

18 A disease shall be deemed to arise out of the employment
19 if there is apparent to the rational mind, upon consideration
20 of all the circumstances, a causal connection between the
21 conditions under which the work is performed and the
22 occupational disease. The disease need not to have been
23 foreseen or expected but after its contraction it must appear
24 to have had its origin or aggravation in a risk connected
25 with the employment and to have flowed from that source as a
26 rational consequence.

27 An employee shall be conclusively deemed to have been
28 exposed to the hazards of an occupational disease when, for
29 any length of time however short, he or she is employed in an
30 occupation or process in which the hazard of the disease
31 exists; provided however, that in a claim of exposure to
32 atomic radiation, the fact of such exposure must be verified
33 by the records of the central registry of radiation exposure
34 maintained by the Department of Public Health or by some

1 other recognized governmental agency maintaining records of
2 such exposures whenever and to the extent that the records
3 are on file with the Department of Public Health or the
4 agency.

5 The employer liable for the compensation in this Act
6 provided shall be the employer in whose employment the
7 employee was last exposed to the hazard of the occupational
8 disease claimed upon regardless of the length of time of such
9 last exposure, except, in cases of silicosis or asbestosis,
10 the only employer liable shall be the last employer in whose
11 employment the employee was last exposed during a period of
12 60 days or more after the effective date of this Act, to the
13 hazard of such occupational disease, and, in such cases, an
14 exposure during a period of less than 60 days, after the
15 effective date of this Act, shall not be deemed a last
16 exposure. If a miner who is suffering or suffered from
17 pneumoconiosis was employed for 10 years or more in one or
18 more coal mines there shall, effective July 1, 1973 be a
19 rebuttable presumption that his or her pneumoconiosis arose
20 out of such employment.

21 If a deceased miner was employed for 10 years or more in
22 one or more coal mines and died from a respirable disease
23 there shall, effective July 1, 1973, be a rebuttable
24 presumption that his or her death was due to pneumoconiosis.

25 Any condition or impairment of health of an employee
26 employed as a firefighter, emergency medical technician
27 (EMT), or paramedic which results directly or indirectly from
28 any bloodborne pathogen, lung or respiratory disease or
29 condition, heart or vascular disease or condition,
30 hypertension, tuberculosis, or cancer resulting in any
31 disability (temporary, permanent, total, or partial) to the
32 employee shall be conclusively presumed to arise out of and
33 in the course of the employee's firefighting, EMT, or
34 paramedic employment and, further, shall be conclusively

1 presumed to be causally connected to the hazards or exposures
2 of the employment. This presumption shall also apply to any
3 hernia or hearing loss suffered by an employee employed as a
4 firefighter, EMT, or paramedic. However, this presumption
5 shall not apply to any employee who has been employed as a
6 firefighter, EMT, or paramedic for less than 5 years at the
7 time the condition or impairment is discovered.

8 The insurance carrier liable shall be the carrier whose
9 policy was in effect covering the employer liable on the last
10 day of the exposure rendering such employer liable in
11 accordance with the provisions of this Act.

12 (e) "Disablement" means an impairment or partial
13 impairment, temporary or permanent, in the function of the
14 body or any of the members of the body, or the event of
15 becoming disabled from earning full wages at the work in
16 which the employee was engaged when last exposed to the
17 hazards of the occupational disease by the employer from whom
18 he or she claims compensation, or equal wages in other
19 suitable employment; and "disability" means the state of
20 being so incapacitated.

21 (f) No compensation shall be payable for or on account
22 of any occupational disease unless disablement, as herein
23 defined, occurs within two years after the last day of the
24 last exposure to the hazards of the disease, except in cases
25 of occupational disease caused by berylliosis or by the
26 inhalation of silica dust or asbestos dust and, in such
27 cases, within 3 years after the last day of the last exposure
28 to the hazards of such disease and except in the case of
29 occupational disease caused by exposure to radiological
30 materials or equipment, and in such case, within 25 years
31 after the last day of last exposure to the hazards of such
32 disease.

33 (Source: P.A. 81-992.)".